IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO.3000 OF 2002

Vishwanath U. Mada,
President of Juhu Welfare Association and others .. Petitioners
v/s.
The Collector,
Mumbai Suburban District and others .. Respondents

Mr.Siraj Rustamji with Ms.Leela Adhvanju i/by M/s.Pravin Mehta & Mithi for the petitioners.

Ms.Gautambala Gautam for MCZMA.

Ms.P.A.Purandare for B.M.C.- respondent No.2

Mr.K.R.Belosey, Assistant Government Pleader for the respondent No.1.

Mr.P.K.Das, Architect present.

Mr.Gautam Patel, Amicus Curaie.

Mr.Govind M. Bodke, Resident Deputy Collector present.

Mr.Rajiv Chavan for the Union of India.

ALONGWITH

PUBLIC INTEREST WRIT PETITION NO.836 OF 2005

Palm Beach Riviera Cooperative Hsg.Society
and another. .. Petitioners
v/s.
The State of Maharashtra and others. .. Respondents

Ms.Mamta Shah, i/by M/s.Ashwin Ankhad & Associates for the petitioners.

Mr.K.R.Belosey, Assistant Government Pleader for respondent Nos.1 and 3.

Ms.P.A.Purandare for respondent No.2.

Mr.Rajiv Chavan with Ms.Kiran Kondpile for the respondent No.5.

Mr.Gautam Patel, amicum curiae.

ALONGWITH

PUBLIC INTEREST WRIT PETITION NO. 843 OF 2005

Vijay Mohandas Keswani .. Petitioner
v/s.
State of Maharashtra and others. .. Respondents

None for the petitioner.

Mr.Rajiv Chavan with Ms.Kiran Kondpile for the Union of India.

Ms.P.A.Purandare for the respondent No.3.

Mr.K.R.Belosey, Assistant Government Pleader for the respondent No.1 and 4.

Mr.Gautam Patel, amicus curiae.

ALONGWITH

WRIT PETITION NO.1950 OF 2005

Neil John Creado and others. .. Petitioners
v/s.
State of Maharashtra and others. .. Respondents

Mr.Santosh Shetty i/by M/s.M.M.Vashi & Associates for the petitioners.

Mr.K.R.Belosey, Assistant Government Pleader for respondent Nos.1 and 3.

Ms.P.A.Purandare for the respondent No.2.

Mr.Gautam Patel, amicus curiae.

ALONGWITH

WRIT PETITION NO.2515 OF 2005

Pessumal D. Aswani .. Petitioner
v/s.
Maharashtra Housing & Area Development Authority and others. .. Respondents

Mr.Gaurav Joshi i/by Mr.Naresh Ratnani for the petitioner.

Mr.K.R.Belosey, Assistant Government Pleader for the respondent No.2 and 4.

Ms.P.A.Purandare for the respondent No.3.

Mr.Gautam Patel, amicus curiae.

CORAM : R.M. LODHA &
ANOOP V.MOHTA, JJ.

DATED : 1ST MARCH, 2006.

P.C.

Pursuant to our order dated 15th February, 2006, Mr.P.K.Das, Architect and Mr.Govind M.Bodke, Resident Deputy Collector, Mumbai

Suburban District are present.

2. We heard the learned counsel for the parties and also took into consideration the views of Mr.P.K.Das, Architect in respect of Juhu Beach Redevelopment Plan submitted by him. We perused the affidavits filed by various parties including the affidavit of MCZMA.

3. The key plan submitted by Mr.P.K.Das entitled `Juhu Beach Redevelopment Plan' is marked “X” (pages 1 to 9) for identification purposes. Keeping in view the stand of MCZMA and for protection and preservation of the land recovered from further encroachments, we are satisfied that broadly the plans submitted by Mr.P.K.Das, Architect may be accepted subject to the modifications that we indicate in our order.

4. As regards Zone 1 indicated at page 2 of the plan, we direct that the owners of plots bearing CTS Nos.506/2, 506/3, 506/4, 506/5, 506/6, 506/16 and 506/1 shall construct the new boundary wall in respect of their properties as shown in the plan. The new boundary walls as per page 2 of the plan (Zone 1) shall be constructed by the aforesaid plot owners as early as possible and in no case later than two months from today.

5. As regards the portion marked by lines on the western side of Aswani House, CTS 166 Part, though in the plan it has been shown as encroached land as per survey, Mr.Gaurav Joshi, the learned counsel for the owner of CTS No.166 part submits that by order dated 23rd January, 2006, the Collector has rectified the western boundary of plot No.166. He submits that the boundary wall on the western side of plot No.166 as per the

rectification made by the Collector is already in existence. We accept his statement.

6. Mr.P.K.Das, Architect has suggested the redevelopment and beautification in Zone 1 at page 3 of the plan. Having considered the said plan at page 3, we are of the view that the timber steps shown by the Architect cannot be accepted. The sand bed, ground covers on sand, sand surface, the plantation of trees and the creepers along the edge as per the plan may be accepted and we accept the same accordingly. In other words, save and except the timber steps, rest of the redevelopment and beautification plan in Zone 1 as suggested by Mr.P.K.Das is accepted.

7. As regards Zone 2, we are of the view that precast curb stone and the seats suggested by Mr.P.K.Das in plan at page 5 cannot be permitted. However, use of timber as suggested in the plan at page 5 is permitted. The landscaping as suggested in the plan at page 5 may be done but there shall be no use of bricks, cement, tar, steel etc. at all in that area i.e., Zone 2. The redevelopment and beautification plan for Zone 2 at page 5 stands modified accordingly.

8. As regards the redevelopment and beautification plan for Zone 3 and Zone 11 (page 6 of the plan), we observe that no precast curb stone as suggested in the plan shall be used. However, in place of precast curb stones, timber is permissible. The seats suggested in the plan at page 6 for Zone 3 and Zone 11 are also not acceptable and not permitted. The redevelopment and beautification plan for Zone 3 and Zone 11 (page 6 of

the plan) shall stand modified accordingly.

9. As regards Zone 4 (page 7 of the plan), the redevelopment and beautification plan is accepted save and except the use of precast curb stone, the wooden furniture and the picnic zone as suggested by the Architect. In other words, we do not accept the suggestion of the Architect regarding the development in the area shown as picnic zone, use of wooden furniture and the precast curb stones. Save and except the abovesaid modification, the plan submitted for Zone 4 at page 7 is accepted.

10. As regards Zone 6 (page 8) of the plan, we do not permit use of precast curb stones and the seats as suggested in the plan. Rest of the redevelopment and beautification plan for zone 6 is accepted.

11. For Zone 12, we are informed that garden is already existing. We direct that the said garden shall be maintained as it is without any changes.

12. The walk-way/path way existing in Zone 1 is directed to be removed.

13. It is clarified that for the purposes of the landscaping, no concrete, brick, mesonary, tar, cement or steel shall be used nor any construction activity of any nature shall be undertaken.

14. We direct that the monitoring committee appointed vide order dated 28th June, 2004 shall monitor and oversee the implementation of the aforesaid directions by the concerned authorities and persons.

15. The key plan submitted by Mr.P.K.Das, marked “X” shall be the part of this order.

16. In the case of any difficulty in implementation of the order, the parties shall be at liberty to apply for further orders.

17. In view of this order, writ petition Nos.836 of 2005, 843 of 2005, 1950 of 2005 and 2515 of 2005 remain disposed of. The other writ petitions shall come up for further directions after two months.

(R.M.LODHA, J.)

(ANOOP V. MOHTA, J.)